

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

§282.102 Puerto Rico State-Administered Program.

(a) The Commonwealth of Puerto Rico is approved to administer and enforce an underground storage tank program in lieu of the federal program under subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The Commonwealth's program, as administered by the Commonwealth of Puerto Rico Environmental Quality Board, is approved by EPA pursuant to 42 U.S.C. 6991c and Part 281 of this chapter. EPA is publishing the notice of final determination on the approved Commonwealth of Puerto Rico underground storage tank program concurrently with this notice and it will be effective on March 31, 1998.

(b) The Commonwealth of Puerto Rico has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its corrective action, inspection and enforcement authorities under sections 9003(h)(1), 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h)(1), 6991d and 6991e, as well as its authority under other statutory and regulatory provisions.

(c) To retain program approval, the Commonwealth of Puerto Rico must revise its approved program to adopt new changes to the federal subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If the Commonwealth obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the FEDERAL REGISTER.

(d) The Commonwealth of Puerto Rico has final approval for the following elements submitted to EPA in its program application for final approval and to be published in the FEDERAL REGISTER concurrently with this notice, and to be effective on March 31, 1998. Copies may be obtained from the

Underground Storage Tank Program, Puerto Rico Environmental Quality Board, 431 Ponce De Leon Avenue, Nacional Plaza, Suite 614, Hato Rey, PR 00917, Phone: (787) 767-8109.

(1) *State statutes and regulations.* (i) The provisions cited in this paragraph are incorporated by reference as part of the underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(A) Puerto Rico Statutory Requirements Applicable to the Underground Storage Tank Program, 1997.

(B) Puerto Rico Regulatory Requirements Applicable to the Underground Storage Tank Program, 1997.

(ii) The following specifically identified sections and rules in the Commonwealth of Puerto Rico's statutes, regulations and rules are part of the approved Commonwealth program, although not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include:

(1) Public Policy Environmental Act of 1970, Act Number 9, June 18, 1970, as amended, 12 Laws of Puerto Rico Annotated (L.P.R.A.) §1121 *et seq.*

(i) Section 1131 Functions and duties [Insofar as paragraphs (10), (12), (13), (19), (22), (23), (25), (26), (29), and (30) set forth enforcement authorities.]

(ii) Section 1134 Hearings, orders and judicial proceedings

(iii) Section 1136 Penalty

(iv) Section 1139 Civil actions

(v) Section 1142 Powers [Insofar as (b)(5) sets forth enforcement authorities.]

(2) Puerto Rico Environmental Emergency Fund Act, 12 L.P.R.A. §1269 *et seq.*

(B) The regulatory provisions include:

(1) Underground Storage Tank Control Regulations, Regulation Number 4362, promulgated by the Commonwealth of Puerto Rico Environmental Quality Board on November 7, 1990.

(2) Part X—General Provisions.

(i) Rule 1005 Right of Entry

(ii) Rule 1007 Notice of Violation and Compliance Order

(iii) Rule 1008 Closure of an Underground Storage Tank

(iv) Rule 1010 Penalties

(C) Other provisions include:

(1) Puerto Rico Civil Procedure Rules of 1979, 32 L.P.R.A. Appendix III

(2) Rules of Administrative Procedure for Hearings in Environmental Quality Board, Regulation Number 3672, promulgated on October 19, 1988.

(iii) The following specifically identified sections and rules in the Commonwealth of Puerto Rico's statutes, regulations and rules are broader in scope than the federal program, and are not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include:

(1) Public Policy Environmental Act of 1970, Act Number 9, June 18, 1970, as amended, 12 Laws of Puerto Rico Annotated (L.P.R.A.) §§ 1121 *et seq.*

(i) Section 1131—Functions and duties [Insofar as paragraph (13) addresses permit and license requirements and associated fees, as well as the NPDES and UIC programs; and paragraph (34) relates solely to the solid and hazardous waste programs.]

(ii) Section 1132—Transfer of powers

(iii) Section 1135—Character of Board for federal purposes [Insofar as it addresses permit requirements.]

(iv) Section 1138—Effectiveness of previous documents [Insofar as it addresses permit and licensing requirements.]

(B) The regulatory provisions include:

(1) Underground Storage Tank Control Regulations, Regulation Number 4362, promulgated by the Commonwealth of Puerto Rico Environmental Quality Board on November 7, 1990.

(i) Part VI—Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances: Rule 603—Initial Abatement Measures and Site Check [Insofar as 603(A)(5) requires owners and operators to obtain permits or franchises for drilling and installation of groundwater monitoring and/or extraction wells.]; Rule 605—Free Product Removal [Insofar as 605(A) and 605(D)(6) require owners and operators to obtain permits or franchises for drilling and installation of water monitoring and/or extraction wells.].

(ii) Part XII—Fee Rules [Insofar as fees are broader in scope than the federal program.]: Rule 1201—Applica-

bility; Rule 1202—Annual Notification Fees; Rule 1203—Fee Relative to Transfer of Ownership; Rule 1204—Fees for Duplication of Records; Rule 1205—Fee Payments; Rule 1206—Exemptions from Fees; Rule 1207—Fees for Revision of Permanent Closure Plans; Rule 1208—Fees for Annual Re-certification of UST Facilities.

(2) *Statement of legal authority.* The Attorney General Statement, a letter signed on July 2, 1997, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The "Demonstration of Procedures for Adequate Enforcement" submitted as part of the application for approval on January 17, 1996, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program Description.* The program description and any other material submitted as part of the application on January 17, 1996 and supplemented on April 17, 1997, though not incorporated by reference, are referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 2 and the Puerto Rico Environmental Quality Board, signed by an authorized representative of the Environmental Quality Board on March 7, 1997 and subsequently by an authorized representative of EPA, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

[63 FR 4593, Jan. 30, 1998]

APPENDIX A TO PART 282—STATE REQUIREMENTS INCORPORATED BY REFERENCE IN PART 282 OF THE CODE OF FEDERAL REGULATIONS

PUERTO RICO

(a) The statutory provisions include:

1. Public Policy Environmental Act of 1970, Act Number 9, June 18, 1970, as amended, 12 Laws of Puerto Rico Annotated (L.P.R.A.) §1121 *et seq.*

- (1) Section 1121—Short title
- (2) Section 1122—Purpose
- (3) Section 1123—Declaration of policy
- (4) Section 1124—Interpretation of legal provisions
- (5) Section 1125—Duties of governmental agencies
- (6) Section 1126—Savings clause
- (7) Section 1127—Complementary character
- (8) Section 1128—Annual report of Governor
- (9) Section 1129—Creation of Board; composition; term
- (10) Section 1130—Duties of Chairman
- (11) Section 1130A—Consulting Council
- (12) Section 1131—Functions and duties [Except paragraphs (10), (12), (19), (22), (23), (25), (26), (29), and (30), insofar as they outline enforcement authorities; paragraph (13), insofar as it addresses enforcement authorities, permit and license requirements and associated fees, as well as the NPDES and UIC programs; and paragraph (34), insofar as it relates solely to the solid and hazardous waste programs.]
- (13) Section 1133—Consultation and use of facilities
- (14) Section 1135—Character of Board for federal purposes [Except insofar as it addresses permit requirements.]
- (15) Section 1135A—Administration of the Puerto Rico Water Pollution Control Revolving Fund
- (16) Section 1137—Confidential documents
- (17) Section 1138—Effectiveness of previous documents [Except insofar as it addresses permit and licensing requirements.]
- (18) Section 1140—Limitations
- (19) Section 1141—Definitions
- (20) Section 1142—Powers [Except insofar as (b)(5) sets forth enforcement authorities.]

(b) The regulatory provisions include:

1. Underground Storage Tank Control Regulations, Regulation Number 4362, promulgated by the Commonwealth of Puerto Rico Environmental Quality Board on November 7, 1990.

a. Part I—Program Scope and Interim Prohibition.

- (1) Rule 101—Program Scope
- (2) Rule 102—Purpose
- (3) Rule 103—Applicability
- (4) Rule 104—Interim Prohibition for Deferred UST Systems
- (5) Rule 105—Definitions and Abbreviations [Except insofar as the Puerto Rico definition of “Underground Storage Tank or UST” does not exclude from regulation heating oil tanks used for storing heating oil for consumptive use on the premises where stored.]

b. Part II—UST Systems: Design, Construction, Installation, and Notification.

- (1) Rule 201—Performance Standards for New UST Systems
- (2) Rule 202—Upgrading of Existing UST Systems
- (3) Rule 203—Notification Requirements

c. Part III—General Operating Requirements.

- (1) Rule 301—Spill and Overfill Control
- (2) Rule 302—Operation and Maintenance of Corrosion Protection
- (3) Rule 303—Compatibility
- (4) Rule 304—Repairs Allowed
- (5) Rule 305—Reporting and Recordkeeping

d. Part IV—Release Detection.

- (1) Rule 401—General Requirements for all UST Systems
- (2) Rule 402—Requirements for Petroleum UST Systems
- (3) Rule 403—Requirements for Hazardous Substance UST Systems
- (4) Rule 404—Methods of Release Detection for Tanks
- (5) Rule 405—Methods of Release Detection for Piping
- (6) Rule 406—Release Detection Recordkeeping

e. Part V—Release Reporting and Investigation.

- (1) Rule 501—Reporting of Suspected Releases
- (2) Rule 502—Investigation Due to Off-site Impacts
- (3) Rule 503—Release Investigation and Confirmation Steps
- (4) Rule 504—Reporting and Cleanup of Spills and Overfills

f. Part VI—Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances.

- (1) Rule 601—General
- (2) Rule 602—Initial Response
- (3) Rule 603—Initial Abatement Measures and Site Check [Except insofar as 603(A)(5) requires owners and operators to obtain permits or franchises for drilling and installation of groundwater monitoring and/or extraction wells.]
- (4) Rule 604—Initial Site Characterization
- (5) Rule 605—Free Product Removal [Except insofar as 605(A) and 605 (D)(6) require owners and operators to obtain permits or franchises for drilling and installation of water monitoring and/or extraction wells.]
- (6) Rule 606—Investigation for Soil and Groundwater Clean-up
- (7) Rule 607—Corrective Action Plan
- (8) Rule 608—Public Participation

g. Part VII—Out-Of-Service UST Systems and Closure.

- (1) Rule 701—Temporary Closure
- (2) Rule 702—Permanent Closure and Changes-in-Service
- (3) Rule 703—Assessing the Site at Closure or Change-in-Service
- (4) Rule 704—Applicability to Previously Closed UST Systems
- (5) Rule 705—Closure Methods

h. Part VIII—Notification Requirements and Procedures.

- (1) Rule 801—Notification of Underground Storage System
- (2) Rule 802—Notification Requirements
- (3) Rule 803—Notification Responsibility
- (4) Rule 804—UST Notification Identification Number
- (5) Rule 805—Changes to Facility Notification Data

i. Part IX—Financial Responsibility Requirements.

- (1) Rule 901—Applicability
- (2) Rule 902—Compliance Dates
- (3) Rule 903—Definition of Terms
- (4) Rule 904—Amount and Scope of Required Financial Responsibility
- (5) Rule 905—Allowable Mechanisms and Combinations of Mechanisms
- (6) Rule 906—Financial Test of Self-Insurance
- (7) Rule 907—Guarantee
- (8) Rule 908—Insurance and Risk Retention Group Coverage
- (9) Rule 909—Surety Bond
- (10) Rule 910—Letter of Credit
- (11) Rule 911—Trust Fund
- (12) Rule 912—Standby Trust Fund

- (13) Rule 913—Substitution of Financial Assurance Mechanisms by Owner or Operator
- (14) Rule 914—Cancellation or Nonrenewal by a Provider of Financial Assurance
- (15) Rule 915—Reporting by Owner or Operator
- (16) Rule 916—Recordkeeping
- (17) Rule 917—Drawing on Financial Assurance Mechanisms
- (18) Rule 918—Release from the Requirements
- (19) Rule 919—Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance
- (20) Rule 920—Replenishment of Guarantees, Letters of Credit, or Surety Bonds
- (21) Rule 921—Suspension of Enforcement

j. Part X—General Provisions.

- (1) Rule 1001—Amendments to this Regulation
- (2) Rule 1002—Monitoring, Recordkeeping, Reporting, Sampling, and Testing Methods
- (3) Rule 1003—Malfunction or Non-compliance, Reporting
- (4) Rule 1004—Confidentiality of Information
- (5) Rule 1006—Public Notice and Public Hearings
- (6) Rule 1009—Public Nuisance
- (7) Rule 1011—Overlapping or Inconsistent Provisions
- (8) Rule 1012—Derogation
- (9) Rule 1013—Separability Clause
- (10) Rule 1014—Effectiveness

k. Part XI—General Prohibitions.

- (1) Rule 1101—Purpose, Scope and Applicability
- (2) Rule 1102—General Prohibitions

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